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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/783,169

02/19/2004

Shane D. Pannell

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08/16/2006

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EXAMINER

KIM, CHRISTOPHER S

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/783,169	<b>Applicant(s)</b> PANNELL ET AL.	
	<b>Examiner</b> Christopher S. Kim	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,9,12-14,16-18 and 38-53 is/are pending in the application.  
4a) Of the above claim(s) 38-45 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,2,4-7,9,12-14,16-18 and 46-53 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The response filed June 7, 2006 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Election/Restrictions***

3. Claims 38-45 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 23, 2005.

### ***Claim Rejections - 35 USC § 103***

4. Claims 1, 4-7, 9, 12, 13, 16-18, 46, 47, 49-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wing (2,862,765) in view of Vella (4,862,931).

Regarding claims 1, 4, 5, 7, 9, 12, 13, 16-18, 46, 47, 49, 50, 52, 53,

Wing discloses a chemical distribution system comprising :

a first portion of tubing 42, 43 which is affixed along an exterior surface (such as screens doors, windows or the like; column 3, lines 50-54) of a dwelling 11;

a second portion of tubing 42, 43 affixed along structures 12, 13 external to the dwelling 11, the second portion of the tubing being connected to the first portion of tubing;

a plurality of outlets 46.

The first portion of tubing has a pressure rating of at least 60 PSI because the tank pressure is 125 PSI (column 2, line 40). The regulator would inherently be sized to at least the tank pressure. Even if the regulator was sized with a max capability of less than the tank pressure, if the regulator would fail resulting in a full open position, the down stream tubing would be designed to handle the tank pressure, for safety purpose. Otherwise, the tubing system would rupture upon failure of the regulator.

Wing also discloses, in column 5, lines 35-44, that nozzles may be positioned at any point and that the fog assembly may be associated with various types of buildings and vehicles, such as warehouses, garages, barns, dairies, airplanes, etc.

Wing discloses neither the quick-disconnect fitting nor the lever-arm. Vella discloses a quick-disconnect fitting 35 attached to lever 20,37 in junction box 30 external to dwelling 3. The lever 20,37 is coupled to tubing 22 to charge apparatus 24. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the quick-disconnect fitting 35, lever 20,37 and junction box 30 of Vella to the tank 14,15 of Wing to charge/recharge the tank.

Regarding claims 6 and 51, Wing discloses the limitations of the claimed invention with the exception of the routing the second portion along fence pillars. Wing also discloses, in column 5, lines 35-44, that nozzles may be positioned at any point and that the fog assembly may be associated with various types of buildings and vehicles, such as warehouses, garages, barns, dairies, airplanes, etc.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have routed the second tugging along fence pillars to control insect at fences.

5. Claims 2, 14 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wing (2,862,765) in view of Vella (4,862,931) as applied to claims 1, 12 and 47 above, and further in view of Valiant (4,175,703).

Wing in view of Vella discloses the limitations of the claimed invention with the exception of the clamps. Valiant discloses form fitting clamps 27 used to route conduit 20. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have used the claims of Valiant to route the tubing of Wing in view of Vella to prevent substantial harm to the appearance of the building (Valiant, column 1, lines 50-54).

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 3-7, 9, 12, 13, 16-18, 46, 47, 49-53 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Christopher S. Kim  
Primary Examiner  
Art Unit 3752

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